

REMARKS/ARGUMENTS

Claims 1-12 and 14-17 are presently pending in this application. Claim 13 has been canceled.

All claims, including independent claim 1, were rejected for obviousness over the combination of the Sagstetter patent (5,219,333) and the Haber patent (4,947,863). The basis for the rejection was the Examiner's observation that Haber teaches "a device with a plurality of deformable protrusions (24 & Column 4, lines 7-13), which are disposed ... so as to be adapted to hold the collection vial by virtue of frictional engagement along the axis (Figures 3 & 5-8)".

Applicants disagree and request retraction of the rejection in view of the following.

Although the inner segmented ring (24) of Haber is disposed on and extends around the periphery of the outer sleeve (3) below the proximal end thereof, it is clearly disclosed by Haber that the function of the inner segmented ring (24) is to contact the ramp portions (14, 18) of the inner cylinder (2) when the outer sleeve (3) slides over the inner cylinder (2) from the retracted position to the axially extended position as stated in lines 11-20 of column 4 of Haber. In other words, when in the retracted position, the segmented ring (24) is out of contact with the inner cylinder (2), as clearly shown in Fig. 4 and described in column 4, lines 25-27 of Haber. Besides, the inner cylinder (2), to which the double-ended hypodermic needle cannula (30) is retained (lines 29-32 of column 4), is for receiving a conventional drawn blood collection phlebotomy tube (i.e. the collection vial), as is disclosed in column 4, lines 44-49 of Haber.

In contrast thereto, independent claim 1 of the present application recites that the medical collection device has "deformable protrusions ... on said inner surface of said larger-diameter wall portion of ... which extend radially inwardly so as to be adapted to hold the collection vial (5) by virtue of frictional engagement along the axis". As a result, the vial can be inserted into the collection device and be retained by the deformable protrusions (282) before the needle cannula (41) is inserted into the patient's vein. This provides a significantly more convenient and efficient operation of the collection device because the claimed arrangement

forms a stable attachment for *the collection vial (5)* to the barrel (2). For example, a possible swaying of the collection vial (5) during its use, that is, during injection, is thereby prevented, which helps minimize the discomfort caused to the patient, as was also explained in the third paragraph on page 11 of the Amendment filed June 26, 2006.

Clearly, and without question, the inner segmented ring (24) of Haber has nothing to do with the deformable protrusions recited in claim 1 of this application, which hold the vial in a stable position when the injection is made.

As is shown in Fig. 4 of Haber, the inwardly directed protrusions are not even in contact with the inner cylinder (2) when the injection is about to be made. These protrusions therefore do not and cannot generate the frictional engagement required by the last paragraph of claim 1. In addition, the inwardly directed protrusions (24) of Haber are not deformable as required by claim 1. As is clearly shown in Figs. 6-8 of Haber, the protrusions (24) are rigid and as a result cause and require a deformation of the inner cylinder in order to insert it into the outer sleeve (3).

Neither Sagstetter, nor any of the other references of record, supply what is not taught by Haber relative to the frictional positioning of the vial.

Claim 1 is therefore not obvious over Sagstetter in view of Haber.


Claims 2-12 and 14-17 are directed to specific features of the present invention which are not taught by the prior art references of record. These claims are therefore patentable in their own right. They are further allowable because they depend from an allowable parent claim.

CONCLUSION

In view of the foregoing, applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 576-0200.

Respectfully submitted,


J. Georg Seka
Reg. No. 24,491

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
JGS:jhw
60915832 v1